IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 4401 of 2000 & 5486 of 2000

1)WRIT PETITION NO : 4401 of 2000

Between:

A.P. State Road Transport Corporation,

Musheerabad, Hyderabad, rep. by its

Managing Director … Petitioner

AND

1)State Transport Appellate Tribunal,

A.P., Hyderabad, rep. by its Presiding Officer.

2)The Regional Transport Authority, Srikakulam,

rep. by its Secretary.

3)A.Ratnakar, s/o.Laxmana rao,

M.I.G. 171, P.N.Colony, Srikakulam,

Srikakulam dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction especially in the nature of a Writ of Certiorari, calling for the records relating to the impugned order dated 27.12.1999 made in AP No.257/97 State Transport Tribunal, A.P., Hyderabad, setting aside the order interim No.62 in Rc.No. 10523/A1/96, dated 10.02.1997 of the Regional Transport Authority, Srikakulam and directing issue of a pucca stage carriage permit to the third respondent on the route Srikakulam RTC Bus Stand to Amudalavalasa R.S., and quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioner: MR. K.Harinath, S.C. for A.P.S.R.T.C. & Mr.K.Srinivasa Rao.

Counsel for the Respondents 1& 2 : G.P. for Transport.

Counsel for the Respondent no.3: Mr. T.Venkata Ramana.

2)WRIT PETITION NO : 5486 of 2000

Between:

1) A.P. State Road Transport Corporation,

Musheerabad, Hyderabad, rep. by its

Managing Director.

2)The Regional Manager, A.P.S.R.T.C., Srikakulam.

..... PETITIONER

AND

1)State Transport Appellate Tribunal, A.P., Hyderabad,

rep. by its Presiding Officer.

2)The Regional Transport Authority, Srikakulam,

rep. by its Secretary.

3)K.Rajendra Kumar, s/o.K.Krishna Murthy,

Bus owner, Gunapalem, Srikakulam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue an appropriate writ, order or direction especially in the nature of a writ of certiorari, calling for the records relating to the impugned order dated 27.12.1999 made in AP No.169/97, State Transport Appellate Tribunal, A.P., Hyderabad, allowing the appeal and setting aside the order dated 10.02.1997 made in item no.28 in Rc.No.9038/A1/96 of the Regional Transport Authority, Srikakulam and directing grant of pucca stage permit on the route Amadalavalasa Railway Station to Srikakulam RTC complex to third respondent, and quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioner: MR K.Harinath & Mr. K.Srinivasa Rao

Counsel for the Respondents 1& 2 : G.P. for Transport.

Counsel for the Respondent no.3: Mr. T.Venkata Ramana.

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 4401 of 2000 & 5486 of 2000

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COMMON ORDER:

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Since common question arises in these two Writ Petitions, they are being taken up together for disposal.

Heard Sri K. Srinivas Rao, learned standing counsel appearing on behalf of the petitioner in both the Writ Petitions, and the learned counsel who is appearing on behalf of the contesting respondents herein.

The main question which ultimately boils down for consideration in these two Writ Petitions is as to whether reliance placed by the Appellate Tribunal below in respect of routes, which according to the petitioner, being new routes, can form basis for grant of permit as sought for ?

In these two Writ Petitions, the private respondents have submitted applications for grant of permits on a mofussil route. In Writ Petition No.4401 of 2000, a request was made for the said permit in respect of route on Srikakulam R.T.C. bus stand to

Amadalavalasa railway station, whereas in the other Writ Petition No.5486 of 2000, the permit sought for was for the route on Amudalavalasa railway station to Srikakulam R.T.C. complex. Initially, the Primary Authority rejected the same. On appeal, the Appellate Authority, considering that it is an existing route, allowed the appeals and directed for grant of the permits.

The learned standing counsel appearing on behalf of the petitioner submits that the route in question in both the cases, in fact, is a new one, which has been carved out at the instance of the applicants and therefore, having regard to the provisions under Section 68 (3) (ca) of the A.P. Motor Vehicles Act, 1988 (for short, 'the Act'), it is not open for the authorities to grant any permits as long as the same is not validly formulated by the Government.

The learned counsel appearing on behalf of the contesting respondents submitted that the Appellate Tribunal, taking into consideration plying of buses on the said route and treating the same as existing route, has rightly granted permission and therefore, it does not call for any interference by this Court.

Considering the submissions made and on perusal of material, the main aspect revolves around is as to whether the routes as sought for, are new routes or existing routes ?

It can not be denied that a route as contemplated, though not in common parleys but as governed by the provisions of the Act, should necessarily be one which is permissible under law or as can be validly constituted in terms of the provisions of the aforesaid Act. Admittedly, in these matters, it is not the case of the respondents that the routes in question are formulated by the Government or can fall well within the four corners of the provisions under Section 68 (3) (ca) of the Act. The Appellate Tribunal has simply taken into consideration plying of buses, which can not be a valid and sound basis for considering the applications for grant of permits. Since this aspect has not come up for proper consideration before Appellate Tribunal, it is felt desirable that an opportunity should be given to both the sides for proper appraisal

thereof. In the circumstances, both the Writ Petitions are allowed and the matters are remitted back to the Appellate Tribunal for fresh disposal in accordance with law on merits after giving notice and opportunity to both sides. No costs.

(B.Prakash Rao, J.)

06.12.2004

DRK

Rule Nisi has been absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on

This the sixth day of December Two thousand and four.

…..Registrar

/True copy/

Section Officer.

Copy to:

1) The Presiding Officer, State Transport Appellate Tribunal,

A.P., Hyderabad,

2)The Secretary, Regional Transport Authority, Srikakulam,

3) Two CCs to the G.P. for Transport, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

4)Two CD copies.